IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

MISC. CIVIL APPLICATION NO. 95 OF 2004

Bahadur Burjorji Gossawala ... Appellant

V/s

Guldarab Panthki & ors. ... Respondents

Mr. M.P. Mishra for the appellant.

Mr. V.S. Kapre for the respondent No.1.

Mr. Naresh A. for the respondents 3 & 4.

CORAM: P.V. KAKADE, J.

DATED: 22ND SEPT., 2004.

P.C.:

1. Heard both sides.

2. Rule. Rule made returnable forthwith by consent.

3. This is an application under Sec.24 for transfer of Suit No. 2885 of 1999 pending in the City Civil Court, Court No.6 to any other Court for trial and final disposal. After hearing the learned counsel for the applicant, it is apparent that only grievance of the applicant is that certain questions put to the other side in the course of the oral examination in chief were

disallowed by the learned Judge. In my view, if this is the circumstance, then the application for transfer is nothing short of frivolous in nature especially when the alternative remedy is available and should be known to any advocate practicing before the Trial Court. In other words, he could make written application to the Court to seek written orders and thereafter seek effective remedy as per law.

4. At this stage, it is pointed out by the other side that such application was in fact made and the learned Judge has recorded the reasons regarding refusal to allow those questions on the ground that asking those questions were vaxatious and frivolous. If this is the position, then, in my view, no transfer can be entertained and in fact, such application would amount to be the frivolous litigation and nothing short of trying to intimidate the Court of law. Under such circumstances, the present application stands dismissed.

The applicant is saddled with cost of Rs.1000/- to be donated to the Kirtikar Library, Bombay, within two weeks.

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